

REMARKS

With entry of this amendment, claims 8, 9, 26, 27, 47, 59, and 60 have been cancelled, and claims 67-117 have been newly added. Claims 1-7, 11-23, 25, 28-46, 49-58, and 61-117 are now pending in this application. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Claim Rejections-35 U.S.C. §103

Claims 1-7, 11-23, 25, 28-46, 49-58, and 61-117 stand rejected under 35 U.S.C. §103, as being obvious over U.S. Patent No. 6,312,429, issued to Burbank, et al. (“Burbank”), in view of U.S. Patent No. 6,165,175, issued to Wampler (“Wampler”), in further view of U.S. Patent Publication No. 2002/0022864 to Mahvi (“Mahvi”). Without acquiescence that Burbank, Wampler, or Mahvi constitute §102(a) or §102(e) prior art references, and without prejudice to antedate these references should it become necessary, Applicant respectfully traverses this rejection, since none of Burbank, Wampler, or Mahvi, alone or in combination, disclose, teach, or suggest the combination of elements required by these claims, as amended.

In particular, independent claims 1 and 51 have been amended to require the deployed first and second electrode arrays to be configured to necrose a volume of tissue therebetween when electrical energy is applied between the first and second electrode arrays. In contrast, the locator wires of Burbank are disclosed as only being capable of facilitating tissue penetration with a minimal amount of deployment force. In fact, because the entire lengths of the locator wires, with the exception of the tips, are coated within an electrically insulative material, Burbank provides no inherent ability to necrose a volume of tissue between the locator wire arrays given the relatively great distance between the tips of the respective locator wire arrays. Wampler and Mahvi do not supplement the failed teaching of Burbank.

Independent claims 16 and 33 have been amended to require the method to further comprise applying electrical energy between the deployed first and second electrode arrays to necrose the tissue region therebetween. Neither Wampler nor Mahvi disclose or suggest that the locator wires of Burbank be used to necrose tissue between the arrays.

Thus, Applicant believes that independent claims 1, 16, 33, and 51, as well as the claims depending therefrom (claims 2-7, 11-15, 17-23, 25, 28-32, 34-46, 49, 50, and 52-58), are not obvious over the combination of Burbank, Wampler, and Mahvi, and as such, respectfully requests withdrawal of the §103 rejections of these claims.

New Claims

Applicant submits that newly added claims 67-117 are supported by the specification, as originally filed, and are patentable over the prior art for at least the same reasons as independent claims 1, 16, 33, and 51 from which they depend are. Claims 67-117 also provide additional patentable features not disclosed, taught, or suggested in a proper combination of Burbank, Wampler, and Mahvi.

For example, claims 68, 81, 93, 106 require tissue to be necrosed axially outward from a center of a volume of tissue or the center of a tissue region. Claims 69, 82, 94, and 107 require the necrosed tissue to be defined by outward perimeters of the first and second electrode arrays. Claims 70, 83, 95, and 108 require the entire lengths of the electrodes of the first and second arrays to be uninsulated. Claims 71-75, 84-88, 96-100, and 109-113 require various volumes of tissue to be necrosed between the electrode arrays. Claims 76, 89, 101, and 114 require the first and second electrode arrays to be completely spaced apart in the axial direction when in the deployed configuration. Claims 78, 91, 103, and 116 require the first electrode array to be a distally facing array that deploys from a proximal axial location and the second electrode array to be a proximal

facing array that deploys from a distal axial location. Claims 79, 92, 104, and 117 require the concave face of the distally facing array to be proximal to the concave face of the proximally facing array when in the deployed configuration.

Any proper combination of Burbank, Wampler, Mahvi does not disclose, teach, or suggest these additional features. If the Examiner should maintain the rejections of any of independent claims 1, 16, 33, and 51, Applicant respectfully requests that the Examiner specifically consider the additional patentable features of the newly added dependent claims.

Conclusion

Based on the foregoing, it is believed that all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (949) 724-1849.

Respectfully submitted,

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